

Peter A. Stearne, Esq.
USSN 10/054,914

REMARKS

In this Amendment, claims 56 and 60 are amended and claims 33-52 are canceled. Thus, after entry of this Amendment, claims 53-63 will be pending in this application.

Claim 56 is amended to correct for proper Markush form. The amendments to claim 56 are not narrowing.

Claim 60 has been amended to correct a typographical error.

No new matter has been added.

Applicants respectfully request entry of the Amendment.

Claim Rejections Under 35 U.S.C. § 102(e)

At page 2 of the Office Action, the Examiner rejects claims 53-55, 62 and 63 under 35 USC § 102(e) as anticipated by US Patent 6,596,318 to Prasch et al.

Specifically, the Examiner contends that Prasch teaches a composition that comprises microparticle cores coated with a layer comprising a biologically active material and a sugar polymer. The Examiner contends that Prasch discloses that the solid particles may comprise albumin or mannitol, and that the biologically active material can be fibrinogen and/or thrombin. The Examiner further contends that Prasch teaches that the coating may comprise binders such as cellulose derivatives and dextrose derivatives.

Claim Objections

At page 3 of the Office Action, the Examiner objects to claims 56-61 as being dependent upon a rejected base claim. The Examiner states that claims 56-61 would be allowable if

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rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Claim Rejections and Objections

Applicants respectfully request withdrawal of the rejections and objections because Prasch is not prior art to any of claims 53-55, 62 and 63.

As further described below, each of claims 53-55, 62 and 63 are entitled to the benefit of the priority date of January 25, 2001 of Australia PR2729, a certified copy of which was submitted by Applicants on May 10, 2002 and acknowledged by the Examiner.

Since Prasch issued from a *continuation* of a PCT filed before November 29, 2000 (PCT/EP99/08128, filed October 27, 1999), and not a national stage application, the effective 102(e) date of Prasch is the U.S. filing date of April 26, 2001.¹ Thus, the legally effective 102(e) date of Prasch is April 26, 2001, approximately 3 months after Applicants' priority date.

Claims 53-55, 62 and 63 are clearly entitled to the benefit of the Australian priority application as follows.

Claim 53 is described, for example, at pages 20-21, 23,-25, and 27, lines 22 and 27, of the Australian priority document.

Claim 54 is described, for example, at page 6, lines 8-10, of the Australian priority document.

¹ MPEP § 2136.03(II)(C)(1) provides: For U.S. patents, apply the reference under 35 USC 102(e) as of the earlier of the date of completion of the requirements of 35 USC 371(c)(1), (2) and (4) or the filing date of the later-filed U.S. application that claimed the benefit of the international application.

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Claim 55 is described, for example, at page 5, last paragraph, of the Australian priority document.

Claim 62 is described, for example, at page 6, lines 28-30 of the Australian priority document.

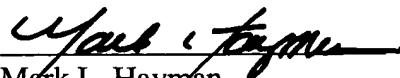
Claim 63 is described at for example, page 7, lines 22-25 of the Australian priority document.

Thus, Prasch is not legally effective prior art against any of claims 53-55, 62 and 63, and as such, Applicants respectfully request withdrawal of the rejections under section 102(e), as well as withdrawal of the objections to claims 56-61.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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